

NO. **83-181**

IN THE

SUPREME COURT OF THE UNITED STATES

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ALEXANDER L. STEVAS.
CLERK

OCTOBER TERM 1983

BALDWIN COUNTY WELCOME CENTER,

Petitioner

vs.

CELINDA BROWN,

Respondent

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

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ATTORNEY GENERAL

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DATE: July 6, 1983

QUESTIONS PRESENTED

Should the 90 day statute of limitations relative to the filing of a complaint in federal court respecting a Title VII claim, 42 U.S.C. §2000e-5(f) (1), and Federal Rules of Civil Procedure, Rule 8, be interpreted with such generosity as to allow the bare submission to the district court clerk of a "right to sue" letter which was issued at the request of the claimant, with no notice to or service upon the employer, to operate as "... a civil action brought against the respondent named in the charge. . ." where no complaint as contemplated by Rule 8 is filed until well after the 90 days specified in the statute have expired?

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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1983

NO. _____

BALDWIN COUNTY WELCOME CENTER¹,
Petitioner

vs.

CELINDA BROWN,
Respondent

**PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

Your petitioner, the Baldwin County Welcome Center¹, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Eleventh Circuit entered in this proceeding on January 31, 1983, rehearing denied April 8, 1983.

OPINION BELOW

The opinion of the Court of Appeals for the Eleventh Circuit, not reported, appears in the Appendix hereto as Appendix A. The opinion of the District Court for the Southern District of Alabama, also not reported, and as amended, appears in Appendix B hereto.

¹Baldwin County Welcome Center is an administrative subdivision of the Alabama Bureau of Publicity and Information, an agency of the State of Alabama, the actual party in interest.

JURISDICTION

The judgement of the Court of Appeals for the Eleventh circuit was entered on January 31, 1983. A timely petition for rehearing *en banc* was denied on April 8, 1983, and this petition for certiorari was filed within 90 days of that date. This Court's jurisdiction is invoked under 28 U.S.C. §1254(1).

QUESTIONS PRESENTED

Should the 90 day statute of limitations relative to the filing of a complaint in federal court respecting a Title VII claim, 42 U.S.C. §2000e-5(f) (1), and Federal Rules of Civil Procedure, Rule 8, be interpreted with such generosity as to allow the bare submission to the district court clerk of a "right to sue" letter which was issued at the request of the claimant, with no notice to or service upon the employer, to operate as "... a civil action brought against the respondent named in the charge. . ." where no complaint as contemplated by Rule 8 is filed until well after the 90 days specified in the statute have expired?

STATUTORY PROVISIONS INVOLVED

42 U.S.C. §2000e-5(f) (1):

If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d) of this section, the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a

respondent which is a government, governmental agency, or political subdivision, if the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commission pursuant to subsection (b) of this section is dismissed by the Commission, or if within one hundred and eighty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d) of this section, whichever is later, the Commission has not filed a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, *shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge* (A) by the person claiming to be aggrieved or (B) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Commission, or

the Attorney General in a case involving a government, government agency, or political subdivision, to intervene in such civil action upon certification that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (c) or (d) of the Commission to obtain voluntary compliance. (emphasis supplied)

STATEMENT OF THE CASE

A. STATEMENT OF THE COURSE OF PROCEEDINGS BELOW AND DISPOSITION OF THE CASE BELOW

This matter was initiated by the receipt on March 17, 1981 in the Clerk's Office of the Middle District of Alabama of a notice of right to sue issued on January 27, 1981 by the United States Department of Justice. (R. 1) An incomplete pauper affidavit was received on March 24, 1981. A Judge of the Middle District, R. L. Varner, granted permission to proceed as a pauper on March 30, 1981 and ordered the matter transferred to the Southern District of Alabama on the 6th day of April, 1981. (R. 13) On April 7 the Court wrote Ms. Brown stating:

"Under the law you have 90 days after the date of the EEOC letter to file a petition . . . On some occasions your letter written to the Court asking for appointment of counsel and that the letter be considered as your petition for relief may be considered as a petition within the 90 day time period."

On April 15 the Magistrate for the Southern District issued an order in which he reminded the plaintiff that a complaint must be filed within 90 days after the date of the notice of right to sue. The order also included instructions respecting the appointment of an attorney. (R. 17-19) On

May 6, 1981 an unsigned affidavit, and a motion for appointment of counsel was submitted. (R. 19-23) On May 7 the Magistrate entered his order denying the motion for appointment of counsel and referring the question of whether or not the filing of the right to sue letter was the "filing of a complaint with the court" within the meaning of Rule 3 of the Federal Rules of Civil Procedure to the District Judge. (R. 29) One hundred and thirty days after the date of the right to sue letter, on June 9, 1981, a complaint was filed by an attorney. This complaint was served on June 18, 1981. On December 24, 1981 the District Judge, W. B. Hand, entered an order in which he held that the right to sue letter failed to meet the requirements under Federal Rules of Civil Procedure 8 for a complaint, and that the 90 days having run, the Title VII claim was forfeited. He held that the formal complaint filed on June 9, 1981 contained allegations in addition to the Title VII claims, and therefore this portion of the suit was preserved. This order was amended on January 4, 1982 to permit interlocutory appeal, which appeal was taken, and resulted in the order of January 31, 1983 for which reconsideration, and *en banc* consideration was requested by the defendant-appellee. The petition for reconsideration with suggestions for rehearing *en banc* was denied on April 8, 1983.

B. FACTS

The essential facts necessary for consideration are set

forth in the Statement of the Course of Proceedings above, and are summarized on the table below:

Date	Time Elapsed From Receipt of Notice of Right to Sue	Item	Record Reference
Nov. 6, 1979		Original Complaint with the EEOC	R. p. 37
Jan. 27, 1981		Notice of Right to Sue within 90 days	R. p. 1
Jan. 30, 1981		Presumed date of Receipt Per FRCP 6(e)	R. p. 27
Mar. 17, 1981	46 days	Notice of Right to Sue received by Clerk of the Middle Dist. of Alabama	R. pp. 1 & 5
Mar. 18, 1981	47 days	Papers sent to Brown by Clerk	R. pp. 4 & 6
Mar. 24, 1981	53 days	Pauper Affidavit received by Clerk	R. p. 19
Mar. 30, 1981	59 days	Pauper Status granted by Court	R. p. 19
Apr. 6, 1981	66 days	Matter transferred to Southern District	R. p. 14
Apr. 7, 1981	67 days	Letter from Court to Brown warning of 90 day limit	R. p. 16
Apr. 15, 1981	75 days	Order of Magistrate, Southern District with questionnaire respecting appointment of counsel, and reminder that a complaint must be filed within 90 days	R. p. 17
Apr. 30, 1981	90 days	End of 90 day period	
May 6, 1981	96 days	Unsigned Questionnaire received by Clerk	R. p. 19
May 7, 1981	97 days	Order of Magistrate denying appointment of counsel and raising question of whether complaint, as required per Rule 3 FRCP, had been filed	R. pp. 25-29
June 8, 1981	130 days	Complaint filed	R. p. 33
June 19, 1981	140 days	Complaint served	R. p. 40

REASONS FOR GRANTING THE WRIT

As this Court, speaking through Justice Stevens, observed in *Mohasco v. Silver*, 447 U.S. 807, 65 L. Ed. 2d 532, 100 S. Ct. 2486 "... in the long run, experience teaches that strict adherence to the procedural requirements specified by the legislature is the best guarantee of even-handed administration of the law." 65 L. Ed. 2d at 548. This is particularly true in view of the glut of litigation recently so eloquently commented upon by the Chief Justice in public remarks.

A survey of cases out of the several circuits reveals that out of nine cases decided by courts of appeals on questions similar to the one at bar, three courts have held that tolling was not available. *Wong v. The Bon Marche*, 508 F. 2d 1249 (1975, C.A. 9 Wash.); *Hinton v. CPC International, Inc.*, 520 F. 2d 1512 (1975 C.A. 8 Missouri); and *Genevose v. Shell Oil Co.*, 488 F. 2d 84 (1975 C.A. 5 La.). Two appellate courts, while holding that tolling is available, held that under circumstances in particular cases it was not allowed. *Nilsen v. City of Moss Point*, 621 F. 2d 117 (1980 5th Cir. Mississippi) and *Harris v. National Tea Co.*, 454 F. 2d 307 (1971 C.A. 7 Ill.). The remaining cases have held that tolling of the statute of limitations is available, and have allowed tolling under the circumstances of the specific cases. *Alexander v. Gardner Denver Co.*, 466 F. 2d 1209, reversed on other grounds, 415 U.S. 36, 39 L. Ed. 2d 147, 94 S. Ct. 1011, on remand *aff'd*, C.A. 10 Colorado, 519 F. 2d 503, certiorari denied, 423 U.S. 1058, 46 L. Ed. 2d 648, 96 S. Ct. 793 (1972 C.A. 10 Colorado); *Harris v. Walgreen Distributors*, 456 F. 2d (1972 C.A. 6 Tenn.); *Houston v. General Motors Corp.*, 477 F. 2d 1003 (1973 C.A. 8 Missouri); and *Wrenn v. American Cast Iron Pipe Co.*, 575 F. 2d 544 (1978 C.A. 5 Alabama).

It is apparent that the circuit courts are groping for an equitable rule by which to interpret the Title VII statute of limitations. The United States Supreme Court has not directly addressed this question. However, in *Mohasco v.*

Silver, 447 U. S. 807, 65 L. Ed. 2d 532, 100 S. Ct. 2486 (1980), the court made a glancing in reference to the problem in a footnote, "petitioner did not assert respondents' failure to file the action within 90 days as a defense." 447 U.S. at 811, note 9, 65 L. Ed. 2d 532, 100 S. Ct. 2486.

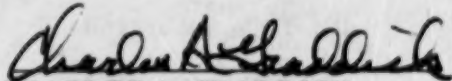
There are three cases in which the Supreme Court has addressed the question of timeliness of filing of charges with the commission within a time period set forth in Title VII. *Love v. The Pullman Co.*, 404 U.S. 522, 30 L. Ed. 2d 679, 92 S. Ct. 616 (1972); *Electrical Workers v. Robbins and Myers, Inc.*, 429 U.S. 229, 50 L. Ed. 2d 427, 97 S. Ct. 441 (1976); *Zipes v. Transworld Airlines*, 455 U.S. 385, 71 L. Ed. 2d 234, 102 S. Ct. 1127, reh. den. (U.S.) 72 L. Ed. 2d 461, 102 S. Ct. 2001. While it is tempting to analogize the provisions of Title VII respecting the bringing of a complaint before the EEOC to the provisions respecting the bringing of civil action before the federal courts, there is a substantial difference. Bringing a complaint before the EEOC is a layman's action unassisted and unencouraged, while bringing a civil action before the district courts cannot occur until the right to sue notice is issued; the procedures before the EEOC are designed to encourage to a claimant to bring his action before the federal court if he is dissatisfied by the results before the EEOC. Furthermore, the district courts, and their clerks, are very solicitous of those who attempt to bring these actions. The record in the instant case is replete with examples of such helpfulness.

CONCLUSION

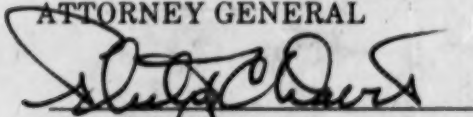
During the period before the amendment to Title VII on March 24, 1972, when a layman had only 30 days to bring his action, equitable principles and a sense of fair play and generosity led to a search for means to relieve the pressure of such a short period of time. However, Congress has now given the complainant an entire quarter of a year in which to bring his claim before the courts. Obviously, no statute of limitations will be long enough to suit some persons, and there will always be those who, even with meritorious

claims, will wait until too late, or will not take effective action during the period of time specified. There must ultimately be some deadline, and that deadline is provided by a statute of limitations. Fairness and equity require the tolling under certain circumstances. *Chappel v. Emco Machine Works, Co.*, 601 F. 2d 1295 (1979). This is particularly true when the complainant was misled by the EEOC, the employer or the court. In the case at bar, none of these circumstances exist. The courts and their clerks did everything except write a complaint for Brown, and the defendant was totally unaware of any of this. The simple fact is that Brown made a half-hearted attempt to set machinery in motion for her benefit, but never actually took the full step required, the filing of some form of complaint or documentation which could be interpreted as a pro se complaint within the time period specified by Congress. The Title VII aspects of the complaint filed on June 9, 1981 were appropriately dismissed by the district court and that action should be sustained by this Court.

Respectfully submitted,



CHARLES A. GRADDICK
ATTORNEY GENERAL



PHILIP C. DAVIS
ASSISTANT ATTORNEY
GENERAL

DATE: July 6, 1983

ADDRESS OF COUNSEL:
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205/834-5150

APPENDIX A

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

NO. 82-7033
Non-Argument Calendar

CELINDA BROWN,

Plaintiff-Appellant,

versus

BALDWIN COUNTY WELCOME CENTER,

Defendant-Appellee.

Appeal from the United States District Court
For the Southern District of Alabama

(January 31, 1983)

Before TJOFLAT, JOHNSON and HATCHETT,
Circuit Judges.

PER CURIAM:

This is an appeal of an interlocutory order under 28 U.S.C.A. § 1292(b). The issue presented in this case is whether an Equal Employment Opportunity Commission's (EEOC) right-to-sue letter, filed with the court *in forma pauperis*, tolls the ninety day statute of limitations provided in 42 U.S.C.A. § 2000e-5(f) (1). We hold that it does and reverse and remand the case to the district court.

Celinda Brown, appellant, filed charges of employment discrimination with the EEOC against her employer, the

Baldwin County Welcome Center (Welcome Center) of the State of Alabama. About two years later, the United States Department of Justice mailed Brown a "notice of right-to-sue within ninety days." Upon receiving the notice, Brown mailed it to the United States District Court clerk's office in the Middle District of Alabama. In addition, she requested court appointed counsel. Since then events giving rise to the charge occurred in the Southern District of Alabama, the case was transferred to that district. The middle district court also informed Brown by letter that it would be safer to file a petition within the ninety days time period rather than risk using the right-to-sue letter as a petition.*

Upon receipt of the case in the southern district, a magistrate requested that Brown complete a questionnaire and reiterated the necessity of filing a complaint. Additionally, the magistrate advised Brown that she should attempt to obtain representation from a legal aid office. Brown completed the affidavit for *in forma pauperis* and returned it to the magistrate. The magistrate denied Brown's motion for counsel because she failed to timely comply with his orders. The magistrate referred to a district court judge the question of whether Brown's efforts could be recognized as the filing of a "case." By this time, Brown had obtained assistance from the Legal Services Corp., and that organization filed an affidavit of indigency which was accepted by the

*The letter stated:

On some occasions, your letter written to the Court asking for appointment of counsel and that the letter be considered as your petition for relief may be considered as a petition within the 90-day time. However, to be safe, you should file a petition on or before the ninetieth day after the day of the letter from the EEOC informing you of your right to sue. That petition should be filed in the United States District Court for the Southern District of Alabama in Mobile.

I am transferring the whole file and calling attention to the fact that you have asked that the court appoint you an attorney.

district court. Legal Services also filed an "amended" complaint which greatly expanded upon and clarified Brown's claim of discrimination. The Welcome Center responded by arguing that Brown's filing of the right-to-sue letter did not toll the statute of limitations. The district court held that Brown's filing of her right-to-sue letter did not comply with the requirements of Fed.R.Civ.P. 8 for filing of a "complaint," thus concluding that Brown forfeited her right to pursue her Title VII claim.

We follow the lead provided in *Wrenn v. American Cast Iron Pipe Co.*, 575 F. 2d 544 (5th Cir. 1978). In *Wrenn*, the former Fifth Circuit stated:

[T]hat, in the special context of Title VII, the statutory requirement that an action be "brought" within the time period is satisfied by presenting a right-to-sue letter to the court and requesting the appointment of counsel. *Huston v. General Motors Corp.*, 477 F. 2d 1003 (8th Cir. 1973); *Pace v. Super Valu Stores, Inc.*, 55 F.R.D. 187 (S.D. Iowa 1972); *McQueen v. E.M.C. Plastic Co.*, 302 F.Supp. 881 (E.D. Tex. 1969); *Austin v. Reynolds Metals Co.*, 327 F.Supp. 1145, 1147-1151 (E.D. Va. 1970); see Annot. 4 A.L.R.F. 833 at § 12[c], [d]. The court may then . . . specify an extended time for the more exact requirements of pleading.

575 F.2d at 546. As the court in *Wrenn* admitted, this interpretation of Title VII is generous. The remedial nature of the statute requires such an interpretation. Additionally, such a holding is consistent with past decisions which liberally construe actions brought by individuals without a lawyer. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). Brown's diligence in this case was sufficient to justify the district court's attention to her matter.

We hold that Brown's filing of her right-to-sue letter satisfied the ninety day statutory limitation. This case is reversed and remanded for further proceedings.

REVERSED AND REMANDED.

APPENDIX B

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

CELINDA BROWN,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 81-0241-H
)	
BALDWIN COUNTY)	
WELCOME CENTER)	
)	
Defendant.)	

ORDER

The issue before the Court is whether a pro se plaintiff can commence an employment-discrimination suit under 42 U.S.C., §2000e by merely filing a copy of a right-to-sue letter issued by the United States Department of Justice. For the reasons below, the Court holds that in this case the simple filing of the right-to-sue letter was inadequate to commence a civil action under 42 U.S.C., §2000e-5(f) (1).

An order which the Magistrate entered on May 7, 1981, thoroughly details the events surrounding the filing by the plaintiff of her right-to-sue letter with the Court. The Court adopts the Magistrate's recitation of the facts. Nothing would be gained by repeating them.

The Court finds it especially significant that the right-to-sue letter which the United States Department of Justice issued wholly fails to indicate the factual basis upon which

the alledged claim of discrimination was based. The notice says absolutely nothing about the factual situation involved with the discrimination claim. The sole function served by the notice issued in this case is to notify the plaintiff that if she chooses to commence a civil action "such suit must be filed in the appropriate United States District Court within ninety days of [her] receipt of this Notice."

The Notice is crystal clear that a further step must be taken by the plaintiff if she wishes to file a civil action. At several points in the Notice, the significance of the ninety-day period is emphasized.

This case is readily distinguishable from the many cases which discuss the end's and out's of right-to-sue letters. Ordinarily, the issue presented for decision is when the plaintiff was put on notice that the administrative proceedings before the EEOC had terminated. This is not questioned in the case at bar.

"42 U.S.C.A., §2000e-5(f) (1) [requires] that civil actions be commenced within ninety days after receiving notice of the right to sue." *Nilsen v. City of Moss Point, Mississippi*, 621 F.2d 117, 120 (Fifth Cir. 1980). The plain language of 42 U.S.C. §2000e-5(f) (1) and Fed.R.Civ.P. 3 demonstrate that a right-to-sue letter is not equivalent to a complaint.

In deciding this issue, the Court is left to grapple with conflicting authority. In *Wrenn v. American Cast Iron Pipe Company*, 575 F.2d 544 (Fifth Cir. 1978), the Court of Appeals held that "in the specific context of Title VII, the statutory requirement that an action be 'brought' within the time period [mandated by section 2000e-5(f) (1)] is satisfied by presenting a right-to-sue letter to the Court and requesting the appointment of counsel." *Id.* at 546. The *Wrenn* case was decided on June 21, 1979. In contrast, on June 23, 1978, the United States Court of Appeals for the Fifth Circuit held that "42 U.S.C. §2000e-5(f) (1) requires that a complaint be filed within ninety days after receipt of a right-to-sue letter, and this ninety-day period has been held to be jurisdictional." *Prophet vs. Armco Steel, Inc.*, 575 F.2d 579, 580 (Fifth Cir. 1978). The *Prophet* Court held that

the Court may not extend the ninety-day period in that an action filed within ninety one days is time barred. *Id.*

The more recent decision in *Nilsen* follows *Prophet*. Indeed the better view would seem to be that announced by the *Prophet* decision. Fed.R.Civ.P. 8 sets forth the requirements for filing a complaint. At the very minimum, the accusatory instrument should contain a short and plain statement of the factual basis upon which the claim rests.

The Court holds that the plaintiff has forfeited her right to pursue her Title VII claim because of her failure to file a complaint which meets the requirements of Rule 8 of the Federal Rules of Civil Procedure within ninety days after receiving her right-to-sue letter from the United States Department of Justice on January 27, 1981.

The formal complaint which the plaintiff filed on June 9, 1981, contains allegations in addition to the allegation made under Title VII. Without further objection from the defendant, the Court presumes that these claims are ready for trial and that this case can be pretried on January 13, 1982, as originally scheduled.

DONE this 24th day of December, 1981.

/S/
W. B. HAND
CHIEF U.S. DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

CELINDA BROWN,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 81-0241-H
)	
BALDWIN COUNTY)	
WELCOME CENTER,)	
)	
Defendant.)	

AMENDED ORDER

Plaintiff, on January 4, 1982, filed her MOTION TO AMEND ORDER TO CONTAIN APPLICATION TO ALLOW INTERLOCUTORY APPEAL OR, IN THE ALTERNATIVE, MOTION TO RECONSIDER in conjunction with an order entered by the Court on December 24, 1981. That order dealt with the issue of whether the filing of an EEOC right-to-sue letter with the Court of appropriate jurisdiction tolls the 90-day limitation provided for in 42 U.S.C. §2000e-5(f) (1). The Court held, *inter alia*, that under the facts of this case, plaintiff, "... forfeited her right to pursue her Title VII claim because of her failure to file a complaint which meets the requirements of Rule 8 of the *Federal Rules of Civil Procedure* within ninety days after receiving her right-to-sue letter from the United States Department of Justice on January 27, 1981."

The Court amends that order so as to include the following: that the December 24, 1981 order involves a controlling question of law as to which there is substantial ground

for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation. Accordingly, an immediate appeal from that order and pursuant to 28 U.S.C. §1292(b) would seem appropriate. It is therefore

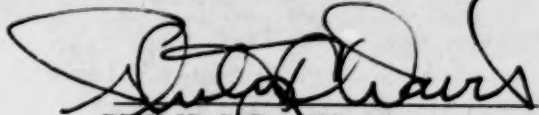
ORDERED, ADJUDGED and DECREED that these proceedings be stayed until such time as the appellate court considers the matter and, further, that is favorably considered so as to allow an interlocutory appeal, that such stay remain in effect until such time as a final order is entered by the appellate court.

DONE this 5th day of January, 1982.

/S/ _____
CHIEF JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this the 6th day of July, 1983, three copies of the above and foregoing Petition for Writ of Certiorari were mailed, postage prepaid, to the Honorable Joseph Carr, IV, attorney and counsel for the respondent. I further certify that all parties required to be served have been served.

A handwritten signature in dark ink, appearing to read "Philip C. Davis", is written over a horizontal line.

**PHILIP C. DAVIS
ASSISTANT ATTORNEY
GENERAL**

**COUNSEL FOR THE
PETITIONER**